

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Alcides Agustin Monge,)	Civil Action No.: 4:14-cv-813-RBH
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Tom Fox, Director of Horry County)	
Sheriff's Department, and David)	
Robinson, Warden of J. Reuben)	
Long Detention Center,)	
)	
Defendants.)	
)	

Plaintiff Alcides Agustin Monge ("Plaintiff"), a self-represented prisoner, filed this action pursuant to 42 U.S.C. § 1983 on March 11, 2014. *See* Compl., ECF No. 1. Plaintiff later amended his complaint on March 11, 2014.¹ *See* Am. Compl., ECF No. 21. The matter is before the Court for review of the Report and Recommendation ("R & R") of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina. *See* R & R, ECF No. 30. In the R & R, the Magistrate Judge recommends that the Court summarily dismiss this action without prejudice and without issuance and service of process as to all Defendants. *See id.* at 4. The Magistrate Judge also recommends

¹ As the Magistrate Judge noted in the R & R, a previous R & R was entered with regard to the initial complaint, recommending dismissal without prejudice. *See* ECF No. 11. Plaintiff filed objections to this R & R, *see* ECF No. 13, which the Court construed as a proposed amendment to the Complaint, *see* Order, ECF No. 20 at 3. The Court directed the Clerk to file the Amended Complaint and recommitted the matter back to the Magistrate Judge. *See id.* at 3–4.

the Court deny Plaintiff's motion for summary judgment.² *See* Pl.'s Mot., ECF No. 26; ECF No. 30 at n.2.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

No party has filed objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendations. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’”) (quoting Fed. R. Civ. P. 72 advisory committee's note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated

² In ECF No. 26, Plaintiff requested the Court consolidate this case, Case No. 4:14-cv-813, with Case No. 4:14-cv-2747. The Magistrate Judge noted that Case No. 4:14-cv-2747 was closed on November 4, 2014, and thus denied this request as moot. This filing, however, also appears to be a motion for summary judgment in both of these cases. *See* ECF No. 26 at 2. The Magistrate Judge recommends that in light of the closed status of one case and the recommendation of dismissal in the above captioned action, the Court deny this motion as being without sufficient legal merit. *See* ECF No. 30 at 6 n.2.

by reference. Therefore, it is **ORDERED** that this action is **DISMISSED** *without prejudice* and without issuance and service of process as to all Defendants. **IT IS FURTHER ORDERED** that Plaintiff's motion for summary judgment, ECF No. 26, is **DENIED**.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
March 23, 2015